

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MICHAEL SALISBURY,

No. C-06-2993 MMC

Plaintiff,

**ORDER GRANTING PLAINTIFF'S RULE
56(f) REQUEST FOR EXTENSION OF
DEADLINE TO FILE OPPOSITION TO
MOTION FOR SUMMARY JUDGMENT**

v.

DETECTIVE MICHAEL WARD, et al.,

(Docket No. 95)

Defendants.

_____ /

Before the Court is plaintiff's request, filed June 4, 2007, for an extension, pursuant to Rule 56(f) of the Federal Rules of Civil Procedure, of the deadline to file opposition to defendants' motion for summary judgment. Defendants have opposed plaintiff's request.

Rule 56(f) provides: "Should it appear from the affidavits of a party opposing the motion that the party cannot for reasons stated present by affidavit facts essential to justify the party's opposition, the court may refuse the application for judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is just." Fed. R. Civ. P. 56(f). A party seeking a continuance "must show how additional discovery would preclude summary judgment and why a party cannot immediately provide 'specific facts' demonstrating a genuine issue of material fact." See Mackey v. Pioneer Nat'l Bank, 867 F.2d 520, 524 (9th Cir. 1989).

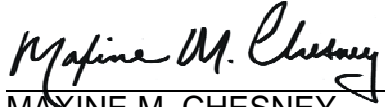
Plaintiff seeks a continuance on the grounds that he seeks to (1) move, pursuant to Rule 36(b) of the Federal Rules of Civil Procedure, to set aside his deemed admissions to

1 defendants' requests for admission, and (2) obtain a copy of the deposition of his own
2 expert, which plaintiff expected to have in his possession by June 14, 2007. Subsequent to
3 filing his Rule 56(f) request, plaintiff filed, on June 17, 2007, a motion to set aside his
4 admissions before the Honorable Bernard Zimmerman, but to date plaintiff has neither
5 noticed such motion for hearing nor sought to have such motion heard on shortened time.

6 Although the showing plaintiff has made in support of his Rule 56(f) request is barely
7 adequate, plaintiff's request is hereby GRANTED. No later than July 6, 2007, plaintiff shall
8 file his opposition to defendants' motion for summary judgment. As defendants' lead
9 counsel has filed notice that she is unavailable between June 27, 2007 and July 11, 2007,
10 defendants shall file their reply no later than July 20, 2007. The motion will be taken under
11 submission at that time unless the Court determines, after reviewing the papers, that oral
12 argument would assist the Court.

13 **IT IS SO ORDERED.**

14 Dated: June 22, 2007

15 
16 MAXINE M. CHESNEY
17 United States District Judge
18
19
20
21
22
23
24
25
26
27
28